

ARTURO ESTEBAN Y SANTOS, ROGELIO MANGALI, AND ISIDRO SORIANO Y PERFECTO, PETITIONERS, VS. THE COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 101671. February 09, 1993

Ponente: CAMPOS, JR., J.

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CAMPOS, JR., J.:

Petitioners Arturo Esteban, Rogelio Mangali, and Isidro Soriano, all employees of the Manila Electric Company (MERALCO) challenge in this Petition for Review on Certiorari the affirmation[*] by the Court of Appeals of the judgment[**] of the Regional Trial Court of Manila, Branch 47 holding them guilty beyond reasonable doubt of qualified theft.

The relevant facts are as follows:

On November 29, 1988, the capacitors installed on the MERALCO posts along Maria Orosa Street were stolen. The loss was discovered by the Line Patrol Team, a special group established by MERALCO to conduct surveillance and investigation of pilferages of MERALCO's electrical equipment, on December 18, 1988. The team approached Benito Almosara, a security guard of Max's Restaurant, Maria Orosa Branch, to inquire about the circumstances surrounding the loss of said capacitors. He was brought on December 19, 1988 to the Western Police District Headquarters for questioning. On that day he executed an affidavit.[1] He said therein that three (3) MERALCO men riding a MERALCO truck with plate number PGU-734 and body number 731 dropped by the restaurant and asked about the closing time of Max's Restaurant. Benito Almosara replied that Max's Restaurant would close at 11:00 o'clock in the evening. The men left and returned at about 11:00 o'clock in the evening. They parked their truck near the post and stated that they would replace the condensers. Upon hearing said statement, Benito Almosara jotted in the logbook[2] the body number and plate number of the truck and the number of men therein. Afterwards, he saw two men scaling the posts and lowering the equipment to a third man waiting on the truck.

On December 21, 1988, he executed a second affidavit,[3] where he identified the three men. We quote the pertinent statements in said affidavit, thus:

"03. T: Matatandaan mo ba o makikilala mo ang mga taong nagtantal ng capasitor sa posti (sic) ng Meralco kung makikita mi (sic) silang muli?

S: Makikilala ko po.

04. T: Igala mo nga ang iyong paningin dito sa silid siyasan ng Investigation Division at iyong ituro ang mga taong kumuha ng capasitor kung iyong makikilala?

S: Ayan po sila (At this point declarant pointing to the persons of ISIDRO SORIANO Y PERFECTO, 37 years old, married, Meralco Leadman-lineman, and residing at no. 20. Cozyhomes Subdv. Angono, Rizal, ARTURO ESTEBAN (sic) Y SANTOS, 40 years old, married, lineman, and residing at 703 Ozusan, Taguig, Metro

Manila, and ROGELIO MANGALI Y CORTEZ, 34 years old, married, lineman, and residing at 13 Dalisay St., Valenzuela, Bulacan.)

05. T: Pakisalaysay mo nga sa maikling pananalita ang mga partisipasyon ng bawat isa ng (sic) kunin nila ang mga capacitor ng Meralco?

S: Iyang naka T-shirt ng puti, at naka T-shirt ng yellow ang mga umakyat sa posti (sic) (Declarant pointing to the persons of Arturo Estiban (sic) and Rogelio Mangali) at iyan naman naka T-shirt ng red ang siyang nagaabang sa baba (Declarant pointing to the person of Isidro Soriano).

x x x x x

07. T: Mga ilan metro ang layo ng puwisto (sic) mo mula sa posti (sic) na pinagbababaan nila ng mga piesa?

S: Mga sampung (10) metro ang layo."

Benito Almosara testified in open court and repeated therein his statements. He was also asked to identify again the persons he saw riding in Meralco truck No. 731 in the night of November 29, 1988. And again, he pointed to the three accused, herein petitioners, as the men responsible for the loss of the capacitors along Maria Orosa Street.

The trial court, relying on the testimony of Benito Almosara, convicted herein petitioners. It held that:

"x x x As a result of this discreet effort on the part of the company, it was discovered that the electric capacitors installed on the post in front of the Max's Restaurant along Maria Orosa Street in Ermita, Manila, were removed/taken by three Meralco men aboard a Meralco truck with Plate No. PGU-734 and Body No. 731. This lead was furnished by Security Guard Benito Almosara of the Jaguar Security Agency who was assigned as one of the security guards at Max's Restaurant at Maria Orosa Street, who had the presence of mind to enter into his logbook the incident that happened in the evening of November 29, 1988 at about 11:00 o'clock in the evening (Exh. "KK"). This vital information led to the arrest of, and subsequent filing of the corresponding criminal information against, the three (3) accused in this case for qualified theft.

The Court had reviewed the testimony of Security Guard Benito Almosara several times, and each time that the Court went over his testimony, the Court is more convinced that he spoke the truth of what he saw in the evening of November 29, 1988 when the three (3) accused removed, lowered to the truck and took the electric capacitors from that Meralco post in front of Max's Restaurant. The accused did not give any reason, and the Court could not find any, why Security Guard Benito Almosara entered in his logbook what he witnessed in the evening of November 29, 1988 at about 11:00 o'clock in the evening, if he did not in fact saw (sic) the accused taking these electric capacitors. The accused did not give any reason also, and the Court could not also find any reason, why Security Guard Benito Almosara testified in the manner he did before this Court if he did not in fact saw (sic) the commission of the crime by the three (3) accused." [4]

The decision was appealed to the Honorable Court of Appeals. As stated earlier, it affirmed the lower court's judgment of conviction. It held that:

"A closer scrutiny of the evidence shows that the inculpatory facts adduced by the prosecution meets the exacting standards of the quantum of proof beyond reasonable doubt.

All the accused were seen together riding in the same Meralco vehicle with No. 731 at the scene of the crime at about 11:00 o'clock at night. Inquiries were made of as to the time Max (sic) Restaurant ceases to cater service to the public from the security guard. The security guard on detail, Benito Almosara, who was on his beat on or about the time of the commission of the offense, saw the two accused actually putting down the capacitors in the electric post with the use of a double pulley and that the other co-accused was in turn loading the capacitors at the rear of the vehicle.

The commission of the crime lasted for about an hour and Mr. Almosara had the full opportunity to recognize the appellants. Hardly could an instance arise where a security guard would make an imperfect identification of the malefactors. The identification he made during the police investigation and in the trial of the case is positive and does not engender any doubt whatsoever. The trial court did not err when it lent more credence to the testimony of this witness. It is not necessary to attribute any motive to this witness as the well-settled rule is that motive is unnecessary when the malefactors were positively identified as the one responsible for the commission of the offense.

Assuming that there were flaws in his testimony that led to some inconsistencies and discrepancies as to inconsequential details, yet the fact remains that these inconsistencies would not render the credibility of the witness doubtful.

It is a conceded rule that the matter of assigning values to the testimony of witnesses is best performed by the trial court because unlike the appellate court Judges, can weigh such testimony in the light of the demeanor, conduct, and attitude of the witnesses at the trial. (PP vs. Mendoza, 121 SCRA 149).

The exculpatory facts proven by the defense mostly are composed of negative testimonies and affirmations. It is axiomatic that a negative testimony of a witness cannot prevail as against the positive affirmations of persons testifying to facts observed and investigated. (PP vs. Salon, 79 Phil. 214; PP vs. Aribas, 82 Phil. 395).

It is on this premise that the trial court's findings on the credibility of the witness should not be disturbed and is accorded more respect on appeal.

Moreover, WE see no proper motive of the witnesses for the prosecution to incriminate the appellants in the commission of the offense.

"Where eyewitnesses have no grudge against the accused, their testimonies are credible." (PP vs. Asil, 141 SCRA 286; PP vs. Martinez, 144 SCRA 303)."[5]

This petition rests on the credibility of prosecution witness, Benito Almosara. Allegedly, the trial court and the Court of Appeals erred in relying on his testimony because it was inconsistent and incredible for the following reasons: first, when he was asked about the approximate size of the capacitors, "he described it with considerable discrepancy";[6] second, "he never mentioned who of the three went up the ladder, or how each of the accused performed the theft during the alleged commission despite the proximity of his position with the electrical post";[7] third, his identification of the accused during the investigation was rendered doubtful by the absence of a police line-up and by the fact that it was his first time to meet the three accused, the second time was when he identified them during the trial; and fourth, it was not possible for Benito Almosara to have witnessed the theft and much less, to have identified the perpetrators of the crime, because a person intending to commit a wrongful act would not allow another to witness the same.

We find no merit in this Petition.

The credibility of witnesses "is a matter that is peculiarly within the province of the trial judge".[8] And unless there is a showing that the trial court had overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the results of the case, the appellate court will not disturb the factual findings of the lower court.[9] The rationale for this well-entrenched principle is that "the trial judge has first hand opportunity to examine and observe the conduct and demeanor of the witnesses during the giving of their testimonies." [10]

In this case, We find no reason to depart from the findings of the Regional Trial Court and the Court of Appeals. Petitioners were not able to raise sufficient grounds to make this Court doubt the credibility and truthfulness of Benito Almosara. It is well-settled that eyewitnesses are presumed not to be impelled by improper motives and

that their testimonies are entitled to full faith and credit.[11] The defense has the burden of showing that the prosecution witness has personal motives of their own[12] in testifying against the accused, and absent such proof, the presumption stands.[13]

In impugning the credibility of Benito Almosara, petitioners stated that his description of the capacitors was materially different from their actual appearance. Petitioners also raised doubts on the identification made by Benito Almosara during the investigation because it was only his first meeting with them. The aim of these arguments was to show that Benito Almosara did not witness the taking of the capacitors in the night of November 29, 1988 and that he was lying when he pointed to petitioners as the thieves of the capacitors. Unfortunately for petitioners, however, they were not able to substantiate their allegations. On the contrary, the testimonies of Benito Almosara, both in the direct and cross examinations, reveal straightforwardness and honesty on his part. The trial court has already ruled in favor of his credibility and this has been affirmed by the Court of Appeals. Moreover, a review of the records of the case shows that said conclusions are supported by proofs and this Court finds nothing substantial which have been missed by both courts which could have changed the fate of the petitioners. We have consistently ruled that "discrepancies and inconsistencies in the testimonies of witnesses referring to minor details, and not in actuality touching upon the basic aspects of the whys and wherefores of the crime, do not impair their credibility"[14] rather, they reinforce their reliability.[15] In this case, Benito Almosara's failure to describe the capacitors in a fairly accurate manner does not make him an unreliable witness. He has no knowledge about such equipment for the simple reason that he is not trained to be an electrician. Besides, the appearance of the capacitors is not the concern of this case. Instead, We are concerned with knowing the persons responsible for the theft. And Benito Almosara has helped the Court by identifying the culprits. The failure of the investigators to present a police line-up did not affect the propriety of such identification because the law does not require one for proper identification.[16]

Having sustained the credibility of Benito Almosara as a witness, We now ask: "Is the testimony itself credible?" This is in accordance with Our constant pronouncement that credibility alone of a witness is not enough to make courts rely upon his testimony. Evidence to be believed must not only proceed from a credible witness but must be credible in itself.[17] Petitioners aver that Benito Almosara's testimony is not credible because it is not possible for him to have witnessed the crime because it is contrary to human nature for criminals to allow other persons to see them committing their wrongful acts. However, while it may be true that criminals commit crimes on the sly, there are persons who have the nerve to flaunt their deeds especially when their acts are disguised as lawful undertakings. In such cases, it is hardly the witness fault if he could identify the wrongdoers, especially when enough time has lapsed so as to enable him to have a mental picture of the latter. Such is the case presented here. The three accused, pretending to remove the condensers from the post so that they could be replaced, removed instead the capacitors from the post which were located in a well-lit area. And it took them about an hour to do so. Thus, Benito Almosara, who was then only about ten (10) meters away from the post had enough time to observe the persons "replacing the condensers" and to identify them when he was asked to do so later.

WHEREFORE, in view of the foregoing, WE hereby DISMISS this Petition and AFFIRM the Judgment of the Court of Appeals.

SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, Regalado, and Nocon, JJ., concur.

[*] CA-G.R. No. 09718, August 30, 1991. Penned by Associate Justice Bonifacio A. Cacdac, Jr., and concurred in by Associate Justices Nathanael P. de Pano, Jr. and Fortunato A. Vailoces.

[**] Crim. Case No. 88-69078. July 28, 1990. Penned by Judge Lorenzo Veneracion.

[1] Rollo, pp. 12-13; Exhibit "F", Records, pp. 409-410.

[2] Exhibit "KK", Records, p. 322.

[3] Exhibit "G", Records, p. 408.

[4] Decision, pp. 5-6; Records, pp. 315-316.

[5] Decision, pp. 18-19; Rollo, pp. 41-42.

[6] Petition for Certiorari, p. 9; Rollo, p. 15.

[7] Ibid.

[8] *People vs. Tejada*, 170 SCRA 497 (1989).

[9] *People vs. Belibet*, 199 SCRA 587 (1991); *People vs. Payumo*, 187 SCRA 64 (1990); *People vs. Baduya*, 182 SCRA 57 (1990).

[10] *People vs. Marcos*, 185 SCRA 154 (1990); see also *People vs. Belibet*, *ibid.*.

[11] *People vs. Canamo*, 138 SCRA 141 (1985).

[12] *People vs. Beltran*, 137 SCRA 508 (1985).

[13] *People vs. Odicta*, 197 SCRA 158 (1991); *People vs. Doctolero*, 193 SCRA 632 (1991).

[14] *People vs. Custodio*, 197 SCRA 538 (1991).

[15] *People vs. Mision*, 194 SCRA 432 (1991).

[16] *People vs. Salguero*, 198 SCRA 357 (1991).

[17] *People vs. Marti*, 193 SCRA 57 (1991); *People vs. Malbago*, 185 SCRA 311 (1990).

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